89-591

No. _____

Supreme Court, U.S.
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IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1989

MONTE LEE,

Petitioner,

vs.

JOSEPH R. BIDEN, JR., et al.,

Respondents.

PETITION TO THE UNITED STATES SUPREME COURT FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MONTE LEE
6520 B. Selma Avenue
Hollywood, California 90028
(213) 465-6575

Petitioner Pro Se

54 pp

Lorraine Mitchell - Legal Briefs
732 E. WASHINGTON BOULEVARD
LOS ANGELES, CALIFORNIA 90021
TELEPHONE (213) 747-5631

CONTENTS REPRODUCED FROM FURNISHED PRETYPED COPY.

QUESTIONS PRESENTED

1. Was it within the "legitimate legislative sphere" of the Senate Judicial Committee (who had knowledge of deliberate violations of law, facts, injury, and Judge Anthony M. Kennedy allegation before them) to protect those violations of law, facts, and injury by unanimously approving Judge Kennedy's nomination to sit on the Supreme Court and purposely prevent investigation?

2. Does the Speech and Debate Clause protect a Senator who takes what was said by him on the Senate Floor and submits same to newspaper?

PARTIES TO THE ACTION

PETITIONER MONTE LEE,

RESPONDENTS,

JOSEPH R. BIDEN, JR., Delaware;
EDWARD M. KENNEDY, Massachusetts;
ROBERT C. BYRD, West Virginia;
HOWARD M. METZENBAUM, Ohio;
DENNIS DeCONCINI, Arizona;
PATRICK J. LEAHY, Vermont;
HOWELL HEFLIN, Alabama;
PAUL SIMON, Illinois;
STROM THURMOND, South Carolina;
ORRIN G. HATCH, Utah;
ALAN K. SIMPSON, Wyoming;
CHARLES E. GRASSLEY, Iowa;
ARLEN SPECTER, Pennsylvania;
GORDON J. HUMPHREY, New Hampshire.

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No. _____

IN THE SUPREME COURT

OF THE UNITED STATES

October Term, 1989

MONTE LEE,

Petitioner,

vs.

JOSEPH R. BIDEN, JR., et al.,

Respondents.

PETITION FOR WRIT OF CERTIORARI

Monte Lee, petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case.

JURISDICTION

A timely petition for rehearing with suggestion for Rehearing en banc was denied

on August 10, 1989. The jurisdiction of this court is invoked under 28 U.S.C. § 1254, n. 7.

CONSTITUTION, FEDERAL AND STATE STATUTES

The relevant portions of the Constitution and federal and state statutes are adequately set forth in the Petition.

STATEMENT OF THE CASE

On April 18, 1988, plaintiff filed a Complaint for Damages in the United States District Court for the Central District of California, CV 88 02090 R G (E) against the members of the Senate Judiciary Committee, alleging that they violated plaintiff's rights during the course of the confirmation hearings for Supreme Court Nominee Anthony M. Kennedy. Plaintiff alleged that the defendants illegally failed to investigate charges of wrongdoing by Judge Kennedy which plaintiff presented to them.

> "Judge Kennedy, possessing absolute knowledge he was acting outside the scope of his employment, chose to extend judicial immunity to judges who knowingly aided, and permitted illegal use of the entire peoples' court system by a Dummy Switzerland Corporation formed by Metro-Goldwyn-

Mayer, and Cinerama Studios to conceal proceeds, evade taxes, and swindle investors."

The action was taken against the defendants in their official capacity for damages resulting from their official functions above the law and outside the Constitution, contrary to what they are paid for by the ultimate sovereign, the people. The complaint further alleged:

Possessing knowledge of facts and injury, the Senate Judiciary Committee had the power to bring everything out in the open. Acting in bad faith and total disregard for the peoples' courtrooms, they chose to protect judges who violated the law. They conspired to embark in obstruction of justice with malice, deliberate intent and motive to protect and ward off an investigation of corporations illegal attorney/judge alliances, all named in Ninth Circuit Court of Appeal

briefs and United States Supreme Court Petitions, by sanctioning the Kennedy allegation before them and on January 27, 1988, voting unanimously to approve Judge Kennedy's nomination to sit on the Supreme Court to purposely prevent investigation, and influence the rest of the Senators to follow, who on February 3, 1988, voted 97 to 0 to confirm Judge Kennedy's nomination to become an Associate Justice of the Supreme Court, in violation of 42 U.S.C. 1985 and 42 U.S.C. 1986 and 42 U.S.C. 1983, and;

1. Violation of United States Constitution Article I, Section 1. The legislative, or lawmaking powers belong to the people, not to the Congress. The Congress may make only those laws which the people, through their Constitution, have said it may make.

2. Violated Article 1, Section 3, Clause 6. The people gave responsibility of the Senate to decide whether or not high

government officials have betrayed their trust. The Senate Judicial Committee acted in bad faith and failed to uphold the trust of the people, and the plaintiff, and wrongfully influenced the rest of the senators to follow.

3. Article VI. Violated oath to uphold the Constitution;

4. Fifth Amendment of the Bill of Rights which guarantees every person protection against the arbitrary exercise of power by the federal government; and

5. The Fourteenth Amendment which guarantees to protect Americans against arbitrary state authority. In addition, this amendment guarantees to everyone due process of law, and equal protection of the laws.

On June 17, 1988, the defendants moved to dismiss. Adopting the recommendations of the magistrate, the district court dismissed plaintiff's action on the basis that plaintiff lacks standing, and on the basis that the

action is barred by the Speech or Debate Clause of the United States Constitution.

On August 2, 1988, United States District Judge Richard A. Gadbois, Jr. approved and adopted the Report and Recommendation of Magistrate Eick and ordered the complaint and action dismissed with prejudice. On June 5, 1989, the NINTH CIRCUIT affirmed.

The litigation underlying plaintiff's grievance with Judge Kennedy began in the early 1960's, when plaintiff was sued in California state court because of a dispute over conflicting uses in advertising of similar motion picture titles. Metro-Goldwyn-Mayer, Inc. v. Lee, 212 Cal. App. 2d 23, 27 Cal. Rptr. 833 (Cal. Ct. App. 2d Dist. 1963). Plaintiff initiated several unsuccessful actions in state and federal court against his adversaries, as well as his attorneys, in the original action. Lee v. Mosk, et al., Civ. No. 837449 (Cal. Super. Ct.), aff'd, No. 29142

(Cal. Ct. App. 2d Dist. 1966), petition for hearing denied (Cal. Sup. Ct.); Lee v. Mosk, et al., No. 66-1804 (C.D. Cal. 1972); Lee v. Law Offices of Joseph L. Alioto, et al., No. 78-1729-R (C.D. Cal. 1980).

At some point in the last of these proceedings, plaintiff named United States District Judge Harry Pregerson as a defendant. The action was dismissed, and Ninth Circuit Court affirmed, grounding the dismissal of Judge Pregerson on the doctrine of judicial immunity. 633 F. 2d 222 (9th Cir. 1980), cert. denied, 450 U.S. 967 (1981). The Ninth Circuit's disposition was without a published opinion under Ninth Circuit Rule 36-3.

Plaintiff then filed two unsuccessful actions to challenge the doctrine of judicial immunity. Lee v. Burger, et al., No. CV 82-5549-TJH (C.D. Cal. 1983), aff'd, No. 83-5789 (9th Cir. 1983) (without published opinion), cert. denied, 465 U.S. 1067 (1984); Lee v.

Reagan, et al., No. CV 85-3604-WJR (C.D. Cal. 1985), aff'd, 789 F. 2d 921 (9th Cir. 1986), cert. denied, 479 U.S. 1035 (1987). Judge Kennedy was a member of Ninth Circuit panels that affirmed the dismissal of these actions.

FACT

ATTORNEY WILLIAM FRENCH SMITH

On June 1, 1984, plaintiff requested Attorney General William French Smith that pursuant to the Ethics in Government Act (28 U.S.C., para. 591, et seq.) he cause to be conducted a preliminary investigation and apply to the Federal District court for the appointment of an independent counsel to conduct a full criminal investigation on the information before him. Plaintiff stated that specific, credible evidence of violations of laws by judges and justices, acting in clear absence of jurisdiction, and held unaccountable by the Justices of the United States Supreme Court's self-made, self-

protected, unqualified doctrine of absolute judicial immunity are contained in U.S. Supreme Court petitions for writ of certiorari to the Ninth Circuit Court of Appeals U.S.C. No 80-1309 and No. 83-1208 and briefs to the Ninth Circuit.

Note that 28 U.S.C. Section 592 requires a preliminary investigation whenever information containing a specific allegation of a crime is presented by a credible source.

FACT

ATTORNEY GENERAL EDWIN MEESE

A letter dated April 10, 1987 to Attorney General Edwin Meese (copies to the President, Representatives, Senators, Cabinet Members) re: U.S. Supreme Court No. 86-821, Lee, petitioner vs. President Ronald Reagan, Attorney General William French Smith, Solicitor General Rex E. Lee, Chief Justice Warren Burger, et al., contained the following:

"Please note that 28 U.S.C. Section 592 requires a preliminary investigation whenever information containing a specific allegation of a crime is presented by a credible source. An investigation may not be avoided because of the Attorney General's political loyalty to or support for the policies of the President."

The Ethics in Government Act specifically "provides a mechanism for the court appointment of a temporary special prosecutor (later changed to 'special counsel') when necessary in order to eliminate the conflict of interest inherent when the Department of Justice must investigate and prosecute high-level executive branch officials."

FACT

PLAINTIFF TURNED TO CONGRESS

May 23, 30, 1987, four hundred and

thirty-five (435) individual members of Congress, one hundred (100) individual United States Senators, President Ronald Reagan, and Cabinet members were asked the following:

> "Would you oppose an investigation by a special prosecutor to charges that President Ronald Reagan, Attorney General William French Smith, Solicitor General Rex E. Lee, Justice Warren Burger, et al., knowingly and intentionally chose to protect the Doctrine of Absolute Judicial Immunity possessing absolute knowledge that the doctrine served as a license to aid, abet, protect, and cover up illegal attorney/judge alliances permitting the illegal use of the entire people's court system by a dummy Switzerland corporation formed to conceal proceeds, divert money to

Swiss bank accounts, swindle investors and stockholders, and to avoid paying U.S. taxes?

"If so, why? I would appreciate your thought, as I am sure, would the people."

FACT

SENATE Judicial COMMITTEE

On or about December 8, 1987 before each individual Senator of the Senate Judicial Committee, re: SUPREME COURT NOMINEE JUDGE ANTHONY M. KENNEDY was a STATEMENT OF CASE and the following allegation:

"Judge Kennedy, possessing absolute knowledge he was acting outside the scope of his employment chose to extend judicial immunity to judges who knowingly aided and permitted illegal use of the entire people's court system by a Dummy Switzerland Corporation formed by Metro Goldwyn

Mayer, and Cinerama Studios to conceal proceeds, evade taxes, and swindle investors."

Judge Kennedy said as a private attorney he concentrated on representing corporate clients as their lawyer and lobbyist.

FACTS

SECRET INVESTIGATIONS

CONTAINED IN APPELLANT'S PETITION FOR REHEARING AND SUGGESTION OF APPROPRIATENESS OF EN BANC REHEARING IN NINTH CIRCUIT.

Exhibit: before this court was a letter from CONGRESSMAN BOB McEWEN, 6th DISTRICT, OHIO SELECT COMMITTEE ON INTELLIGENCE, DATED June 8, 1987.

"Dear Mr. Lee:

Many thanks for taking the time to contact my office.

We are in the process of researching your request and a more

detailed response will be forthcoming. If I may be of further assistance concerning this or any other matter, please do not hesitate to contact me immediately."

SENATOR JOSEPH R. BIDEN

On November 20, 1987, Biden sent Attorney General Edwin Meese (who on April 10, 1987 ignored plaintiff's request under the ethics in Government Act, 28 U.S.C. Section 592, that requires a preliminary investigation whenever information containing a specific allegation of a crime is presented by a credible source) a "document request" of unprecedented breath. By November 30, the Justice Department was told to turn over "all documents constituting, describing or referring to any communication, direct or indirect" between Judge Kennedy and anyone in the Justice Department, the White House or Senate, including staffers, "referring or relating to Judge Kennedy's

views on any case, issue or subject that could come before the United States Supreme Court." The request also demanded "all Documents constituting, describing or referring to any questions put to Judge Kennedy."

Chairman Biden didn't even mention it to committee Republicans before or after he sent it.

Obtaining information pertinent to potential legislation or investigation is one of the 'things generally done in a session of the House," Killbourn v. Thompson, 103 U.S. at 204 concerning matters within the legitimate legislative sphere. Eastland v. United States Servicemen's Fund, 421 U.S. at 503, 95 S.Ct. at 1821.

Tenney v. Brandhove, U.S. at 377, this court has not hesitated to sustain the rights of private individuals when it found Congress was acting outside its legislative role. Kilbourn v. Thompson, 103 U.S. 168; Marshall

v. Gordon, 243 U.S. 521; compare McGrain v. Daugherty, 273 U.S. 135, 176.

ARGUMENT

In the course of secret investigations contained in appellant's Petition for Rehearing and Suggestion of Appropriateness of En Banc Rehearing in Ninth Circuit No. 88-6341, the Senate Judicial Committee discovered that they would have to turn against their own political party members who aided and abetted crime within the people's courtrooms, thereby bringing "distinct and palpable injury to themselves" Joyner 706 F.2d at 1526 (quoting Warth, 422 U.S. at 498-99, 95 S.Ct. at 2204-05) (emphasis in original).

The SENATE JUDICIAL COMMITTEE CHOSE TO COVER UP CLEAR AND CONVINCING EXPLICIT AND UNEQUIVOCAL EVIDENCE "SO CLEAR AS TO LEAVE NO SUBSTANTIAL DOUBT," AND "SUFFICIENTLY STRONG TO COMMAND THE UNHESITATING ASSENT OF EVERY

REASONABLE MIND." WITKIN, CALIF. EVIDENCE, SECTION 160 (3d Ed. 1986). BROUGHT TO LIGHT IN UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, CV No. 66-1804-DWW, transfered to CV No. 66-1804-WMB.

Metro-Goldwyn-Mayer obtained a preliminary injunction against plaintiff in the Superior Court of the State of California in and for the County of Los Angeles, Metro-Goldwyn-Mayer, Inc. v. Lee, No. 783825, which order was made on the basis of affidavits that MGM claimed to be facts. The California Court of Appeal affirmed the entry of injunctive relief. Metro-Goldwyn-Mayer, Inc. v. Lee, 212 Cal.App.2d 23, 27, Cal.Rptr. 833 (Cal. Ct. App. 2d Dist. 1963).

Metro-Goldwyn-Mayer palmed off a false affidavit on the State Court to obtain an injunction against plaintiff. The unlawful purpose was to tie plaintiff's motion picture up in litigation by illegal use of judicial

administrative adjudicative proceedings to eliminate competition of plaintiff in violation of Section 4 of the Clayton Act (15 USC 15) and violations of Sections 1 and 2 of the Sherman Act (15 USC 1, 2) which have caused injury to plaintiff.

FALSE AFFIDAVIT

MGM stated as a fact, "that, as of the filing of the case against plaintiff they had spent approximately $50,000.00, attributable solely to publicizing 'THE WONDERFUL WORLD OF THE BROTHERS GRIMM.'" This was a full year before MGM had a motion picture.

METRO-GOLDWYN-MAYER DESTROYED RECORDS WITH LITIGATION PENDING.

Excerpts from deposition taken in Lee v. Mosk, et al., CV No. 66-1804-DWW.

"Deposition of HOWARD STRICKLING, taken on behalf of plaintiff, at 9601 Wilshire Boulevard, Suite 726,

Beverly Hills, California, commencing at 1:30 p.m., Tuesday, June 29, 1971, before Ben Hyatt, CSR. Notary Public, pursuant to stipulation."

HOWARD STRICKLING, having been first duly sworn, testified as follows:

"I am a vice president of Metro-Goldwyn-Mayer, Inc. (hereinafter "MGM") and since January, 1958, I have been in national charge of all advertising and publicity for MGM. I have been in charge of advertising and publicity at MGM Studios for over 20 years and have been engaged in the advertising and publicizing of motion pictures for MGM for over 30 years. In the course of my career I have been connected with advertising and publicizing of well in excess of 1,000 motion pictures.

Q Can you tell us pretty much what your regular duties and responsibilities were with respect to Publicity and Advertising?

A I was a company man, I publicized and advertised and promoted for Metro-Goldwyn-Mayer in all areas."

EXAMINATION

"Q Mr. Strickling, at the commencement of your deposition there was some testimony about reports that were made directly to you from people in the Publicity and Advertising Department, and I think it was your testimony that after you received these reports you read them and then when the picture was released that you destroyed these reports. Is that correct?

A Correct.

Q During the course of employment

at M-G-M you were responsible, were you not, for the publicity and promotion of many pictures other than "THE WONDERFUL WORLD OF THE BROTHERS GRIMM"?

A Right.

Q Was it your practice to destroy reports?

A Yes.

Q Did you ever keep these reports on any picture that you were associated with?

A No.

Q At the time that you filed this affidavit did you have $50,000 worth of receipts or paid invoices from newspapers and other --

A No, no. After all we made still photographs, we had people to make up the campaign, we had stories that were written, we had planted

magazine pieces.

Q Where did you get the $50,000 figure? Did somebody give it to you?

A No. It's my business to know that. It's my figure.

Q From which book did you take it?

A It was my statistics.

Q Was this an estimate?

A Yes.

What were the facts that you estimated it on?

A It will take me a half hour to tell you. I want to hurry.

Q Were you requested to come up with a figure about what the approximate amounts were that you had spent on publicity for "THE WONDERFUL WORLD OF THE BROTHERS Grimm"?

A No one questioned me.

Q Did you make notations to come up with this $50,000?

A No

Q What did you do?

A I sat down in my job, just like you would do in your job, and figured it out.

Q Did you write it out?

A Sure I wrote it out.

Q Do you still have that paper?

A No. I threw it in the wastepaper basket.

Q Do you still have that wastepaper basket?

A No."

A practice to destroy records of 1,000 motion pictures runs into millions of dollars in unaccountable money.

It is an obstruction of justice to destroy evidence knowing that it may be wanted in a judicial proceeding. United States v.

Perlstein, 126 F.2d 799; Commonwealth v. Russo, 177 Pa.Super. 470, 111 A.2d 359.

CLEAR CONVINCING EVIDENCE THAT METRO-GOLDWYN-MAYER, INC., AND CINERAMA, INC., ENTERED INTO AN UNLAWFUL CONTRACT TO VIOLATE ANTITRUST ACTS.

This was made clear in two courtrooms in the United States District Court for the Central District of California in the courtroom of Judge David Williams, CV. No. 66-1804-DWW and in the courtroom of Judge Matthew Byrne, Jr., where the case was transferred, CV No. 66-1804-WMB.

On or about December 9, 1959, the defendants MGM and CINERAMA, INC., (hereinafter "CINERAMA") entered into an unlawful contract, the substantial terms of which MGM and Cinerama were to pool profits,

block book various motion pictures, impose vertical distribution restraints, and engage in circuit dealings. (Defendants' Joint Complaint, para. 1, III, and IV, Metro-Goldwyn-Mayer, Inc., et al. v. Monte Lee, et al., CV No. 783825, Superior Court of California, Los Angeles, County, 1961). The terms of the written agreement between the defendants have long been held to be violative of the Sherman Act. United States v. Paramount Pictures, 334 U.S. 131, 68 S.Ct. 915 (1948), and United States v. Paramount Pictures, 70 F.Supp. 53 (1947). In an effort to conceal the proceeds of this illegal agreement, the defendant MGM received the approval of CINERAMA to form the defendant GALLEN FILMS, S.A., a Switzerland corporation. GALLEN FILMS, S.A., was used by the defendants MGM and CINERAMA as a dummy corporation for the ostensible purpose of producing the film "THE WONDERFUL WORLD OF THE BROTHERS GRIMM."

At this time the plaintiff was an independent distributor who was endeavoring to sell a picture in the open market. In furtherance of their illegal agreement and because the plaintiff was a competitive threat to the fulfillment of the defendants' unlawful alliance, the defendants jointly caused litigation to be used against the plaintiff with the purpose in whole and in part of totally eliminating the competition of the plaintiff. The use of litigation for illegal purposes has long been the handmaiden of monopolists, and the courts have consistently disapproved, as is stated in Kobe, Inc. v. Dempsey Pump Co., 198 F.2d 416, 424, 425 (10th Cir. 1952):

> "At the same time we must not permit the courts to be a vehicle for maintaining and carrying out an unlawful monopoly which has for its purpose the elimination and

prevention of competition.

"The Sherman Act is violated by a conspiracy to unreasonably restrain or monopolize trade through the use of judicial and administrative adjudicative proceedings. Walker Process Equipment, Inc. v. Food Machinery & Chemical Corp., 382 U.S. 172, 86 S.Ct. 347 (1965), ...Kobe, Inc. v. Dempsey Pump Co., 198 F.2d 416 (10th Cir. 1952)."

PLAINTIFF DOES HAVE STANDING TO BRING THIS ACTION

As the ultimate backstop, private citizens can be empowered to bring actions against officials as "private attorney general." Flast v. Cohen, 392 U.S. 83, 88 S.Ct, 1942, 20 L.Ed.2d 947 (1968).

THE SPEECH OR DEBATE CLAUSE OF THE CONSTITUTION DOES NOT BAR THIS SUIT

Plaintiff contends that the Speech or Debate Clause does not protect a Senator who goes public with what was said by him on the floor of the Senate.

"Advise and Consent
The Right and Duty of the
Senate to Protect the
Integrity of the Supreme
Court.
By Sen. Joseph Biden."

The Senate did the exact opposite they chose to make law, to sanction, to assent, concur, confirm the allegation before them:

"Judge Kennedy, possessing absolute knowledge he was acting outside the scope of his employment, chose to extend judicial immunity to judges who knowingly aided, and permitted

illegal use of the entire peoples; court system by a Dummy Switzerland corporation formed by Metro-Goldwyn-Mayer, and Cinerama Studios to conceal proceeds, evade taxes, and swindle investors."

Then by voting 97 to 0 to confirm Judge Kennedy's nomination to become an Associate Justice of the Supreme Court.

In a 1979 decision arising from issues raised by Senator William Proxmire's "Golden Fleece" awards, the Supreme Court, speaking through Chief Justice Warren E. Burger, held that the transmittal of reports of their activities by members of Congress through press releases and newsletters "is not protected by the Speech or Debate Clause" (Hutchinson v. Proxmire, 443 U.S.111, 99 S.Ct. 2675, 61 L.Ed.2d 411 (1978). The Court reasoned:

"(V)aluable and desirable as it may

be in broad terms, the transmittal of such information by individual Members in order to inform the public and other Members is not a part of the legislative function or the deliberations which make up the legislative process."

Members of Congress immunity extends only to legislative acts. They are not immune if they deliberately violate the law. United States v. Brewstar, 408 U.S. 501, 92 S.Ct. 2531, 33 L.Ed.2d 507 (1972).

The Senate Judicial Committee with knowledge of facts before them their Duty to Investigate Injury Arises From Awareness of Suspicious Facts. Pomeranz v. Abbott Laboratories, **87, 534 (Week of July 13, 1987), 191 Cal.App.3d 1331, 87 Dly.Jrnl. Dar. 2321. Moreover, once an individual becomes aware of facts which would make a "reasonably prudent person" suspicious, the individual has the**

duty to investigate further and is charged with knowledge of the facts such as an investigation would have revealed.

As the Supreme Court stated in United States v. Lee, 106 U.S. 196, 220 (1982):

> "No man in this country is so high that he is above the law. NO officer of the law may set that law at defiance with impunity. All the officers of the government, from the highest to the lowest, are creatures of the law, and are bound to obey it.
>
> "It is the only supreme power in our system of government, and every man who by accepting office participates in its functions is only the more strongly bound to submit to that supremacy, and to observe the limitations which it imposes upon the exercise of the

authority which it gives."

In United States v. Brewster, 408 U.S. 501, 516-20 (1972) for example, a Senator charged with having taken a bribe (18 U.S.C. Sec. 201) claimed that the Speech or Debate Clause precluded criminal prosecution. The Court rejected this claim stating:

> "Admittedly, the Speech or Debate Clause must be read broadly to effectuate its purpose of protecting the independence of the Legislative Branch, but no more than the statutes we apply, was its purpose to make members of Congress superior-citizens, immune from criminal responsibility."

False statement...Violated Article I, Section 3, Clause 6. The people gave responsibility of the Senate to decide whether or not high government officials have betrayed their trust. The false statement served to

purposely prevent investigation and to influence Senators to vote unanimously to approve Judge Kennedy's nomination to become an Associate Justice of the Supreme Court and to deceive the public and the legal community. Possessing knowledge of facts and injury., the Senate Judiciary Committee had the power to bring everything out in the open, in violation of 42 U.S.C. 1985 and 42 U.S.C. 1986 and 42 U.S.C. 1983 and Article VI.

STATUTORY PROVISIONS

CITED AND QUOTED

TITLE 42 U.S.C.

Section 1983. Civil Action for deprivation of rights.

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any state or territory, subjects, or causes to be subjected, any citizen of the United

States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in any action at law, suit in equity, or other proper proceeding for redress. R.S. Section 1979."

CIVIL RIGHTS 42 SEC. 1985

Obstructing justice.

"(2) If two or more persons in any state or territory conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any state or territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully

enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;..."

EFFECT OF VIOLATIONS

a. Appellant has been injured in his efforts to compete, remain profitable and expand in the field of distribution in the United Stats and;

b. Years of litigation placed a cloud on appellant's motion picture rendering it worthless; no one wanting to participate in or buy a motion picture tied up in litigation, resulting in a loss of One Million Five Hundred Thousand Dollars and;

c. Lost profits by reason of lost sales that appellant would have made in absence of the hereinabove violations and;

d. Appellant otherwise has been injured in his business and property.

The appellees sanctioned the herein acts and each of them, with malice and bad faith and for the purpose of intentionally oppressing appellant. Accordingly, appellant is entitled to punitive damages in the amount of Fifty Million Dollars.

CONCLUSION

For the foregoing reasons, this Petition for a Writ of Certiorari should be granted.

DATED: October 6, 1989

Respectfully submitted,

Monte Lee

MONTE LEE
Appellant Pro Se

APPENDIX

FILED
JUN 5 1989
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MONTE LEE,	)No. 88-6341
	)
Plaintiff-Appellant,	)D.C. No. CV-
	)88-2090-RG
v.	)
	)
JOSEPH R. BIDEN, JR., et al.,	)MEMORANDUM*
	)
Defendants-Appellees.	)

Appeal from the United States District Court
for the Central District of California
Richard A. Gadbois, Jr.,
District Judge, Presiding

Submitted - April 26, 1989**

Before: SNEED, FLETCHER and THOMPSON,
Circuit Judges.

Monte Lee brought an action against the members of the Senate Judiciary Committee,

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* This disposition is not appropriate for publication and may not be cited to or by the Courts of this Circuit except as provided by Circuit Rule 36-3.

** The panel finds this case appropriate for submission without oral argument pursuant to Fed. R. App. P. 34(a); Circuit Rule 34-4.

alleging that they illegally failed to investigate Lee's allegations of wrongdoing by Judge Anthony Kennedy during the Senate confirmation proceedings relating to the appointment of Judge Kennedy to the Supreme Court. The district court dismissed Lee's complaint, finding that he lacks standing, and that his claims are barred by the Constitution's Speech or Debate Clause. Lee appeals. We affirm.

I.

FACTS

On April 18, 1988, Lee filed a complaint against the members of the Senate Judiciary Committee, alleging that they violated Lee's rights during the course of the confirmation hearings for Supreme Court Nominee Anthony M. Kennedy. Lee alleged that the defendants failed to investigate adequately charges of wrongdoing by Judge

Kennedy which Lee had presented to them. Lee's dissatisfaction with the qualifications of Judge Kennedy apparently arose from Judge Kennedy's participation in rulings by panels of this court unfavorable to Lee's interests.

On June 17, 1988, the defendants moved to dismiss. Adopting the recommendations of the magistrate, the district court dismissed Lee's action on the basis that Lee lacks standing, and on the basis that the action is barred by the Speech or Debate Clause of the United States Constitution. Lee timely appeals. We review de novo both the district court's determination that Lee lacks standing, EMI Ltd. v. Bennett, 738 F.2d 994, 996 (9th Cir.), cert. denied, 469 U.S. 1073 (1984), and its determination that the action is barred by the Speech or Debate Clause. See Miller v. Transamerican Press, Inc., 709 F.wd 524, 528-31 (9th Cir.

1983).

II.

DISCUSSION

A. Standing

The district court properly found that Lee lacks standing to pursue this action. The Supreme Court has held that generalized allegations of unlawful conduct are, in themselves, insufficient to confer standing. Allen v. Wright, 468 U.S. 737, 754-57 (1984). Beyond his generalized grievance, the only injury Lee has alleged is the financial loss he claims resulted from an adverse ruling by a panel of this court in which Judge Kennedy participated. This injury is not fairly traceable to the defendants. Rather, it resulted from the acts of third parties not involved in this suit. Therefore, Lee lacks standing to challenge the acts of the defendants. See Simon v. Eastern Ky. Welfare Rights Org., 426 U.S.

26, 41-42 (1976).

B. Speech or Debate Clause

The Speech or Debate Clause of the United States Constitution provides that legislators "shall not be questioned in any other Place" for "any Speech or Debate in either House." U.S. Const. art. 1, § 6, cl. 1. The Speech or Debate Clause provides absolute protection for senators and representatives for any actions taken within the sphere of legislative activity. Eastland v. United States Servicemen's Fund, 421 U.S. 491, 501 (1975). The power to investigate falls within the activities protected by this clause. Id. at 503-04.

Lee's complaint is based entirely on the defendants' failure to investigate allegations made by Lee during confirmation hearings on Judge Kennedy's appointment to the Supreme Court. Determinations by congressional committee members as to what

matters within their jurisdiction merit further investigation are an integral part of the legislative process, and are protected from challenge through civil lawsuits by the Speeck or Debate Clause.[1] Id. The district court properly dismissed Lee's complaint.

AFFIRMED.

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[1] Lee's reliance on Hutchinson v. Proxmire, 443 U.S. 111 (1979) to support his contention that Speech or Debate clause immunity was lost when Senator Biden submitted to a newspaper a transcript of certain remarks made on the Senate floor is misplaced. Unlike the situation in Hutchinson, which involved allegations that the information released to the press was, itself, defamatory, the information released by Senator Biden does not relate directly to the subject matter of Lee's complaint. Senator Biden's release of the transcript therefore does not affect the immunity protecting the Senate Judiciary Committee's decision not to pursue an investigation of Lee's allegations.

FILED
AUG 10 1989
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MONTE LEE, Plaintiff-Appellant, v. JOSEPH R. BIDEN, JR., et al., Defendants-Appellees.	No. 88-6341 D.C. No. CV-88-2090-RG ORDER

Before: SNEED, FLETCHER and THOMPSON, Circuit Judges

The panel as constituted in the above case has voted to deny the petition for rehearing.

The full court has been advised of the suggestion for rehearing en banc and no judge of the court has requested a vote on it. Fed. R. App. P. 35(b).

The petition for rehearing is denied and the suggestion for rehearing en banc is rejected.